

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Case No. 1:17-cr-20109

*Plaintiff,*

Thomas L. Ludington  
United States District Judge

v.

WAYNE MARSHALL ACUNA,

Patricia T. Morris  
United States Magistrate Judge

*Defendant.*

**ORDER OF DETENTION PENDING SUPERVISED RELEASE**  
**VIOLATION HEARING**

**I. Procedural background**

On July 26, 2017, a Judgment was entered by U.S. District Judge Thomas L. Ludington, committing Defendant to the Bureau of Prisons for a term of 28 months incarceration for Failure to Register as a Sex Offender under 18 U.S.C. §§ 2250. (ECF No. 24.)

On July 23, 2024, Defendant was brought before the court for a detention hearing on an alleged violation of supervised release conditions pursuant to an Order with petition for issuance of warrant and warrant for arrest issued by U.S. District Judge Thomas L. Ludington. (ECF Nos. 25 & 26.)

Defendant was informed of the following rights:

- (1) the right to receive written notice of violation(s) and Defendant acknowledged receipt of the same;
- (2) the right to hearings conducted by the sentencing Judge to determine if Defendant is guilty of the alleged violations;
- (3) the right to retain counsel or to request that counsel be appointed if Defendant cannot afford counsel;

(4) if Defendant is held in custody, the right to a prompt preliminary hearing to determine if probable cause supports the alleged violations under FED. R. CRIM. P. 32.1(a)(3) and (b)(1); Defendant was also informed that this preliminary hearing may be waived.

Counsel for Defendant was present at the hearing and indicated that Defendant desired to proceed with a preliminary hearing under Rule 32.1(b)(1). Accordingly, a preliminary hearing was scheduled for July 30, 2024, at 10:30 a.m.

## **II. Detention or release standards**

As to detention or release, Rule 32.1(a)(6) provides that the magistrate judge may release or detain the defendant under 18 U.S.C. § 3143(a) (the Bail Reform Act) pending further proceedings.

Under 18 U.S.C. § 3143(a)(1), the court **shall order the defendant be detained unless** persuaded by clear and convincing evidence that the defendant is not likely to flee or pose a danger if released under § 3142(b) or (c). Under FED. R. CRIM. P. 32.1(a)(6) “[t]he burden of establishing that the person will not flee or pose a danger to any person or to the community rests with the person.”

## **III. Detention findings**

In the instant case, Defendant’s alleged violations include failure to register as a sex offender, associating with a convicted felon, obstructing lawful process and failure to report to his probation officer such that his whereabouts were unknown until he was arrested. For these reasons and those stated on the record, I am not persuaded by clear and convincing evidence that Defendant is not likely to flee or pose a danger if released under § 3142(b) or (c).

## **IV. Order**

I **ORDER** the detention of the defendant without bail pending his supervised release violation hearing with District Judge Thomas L. Ludington on August 7, 2024 at 10:00 a.m.

Date: July 25, 2024

**S/PATRICIA T. MORRIS**

Patricia T. Morris

United States Magistrate Judge